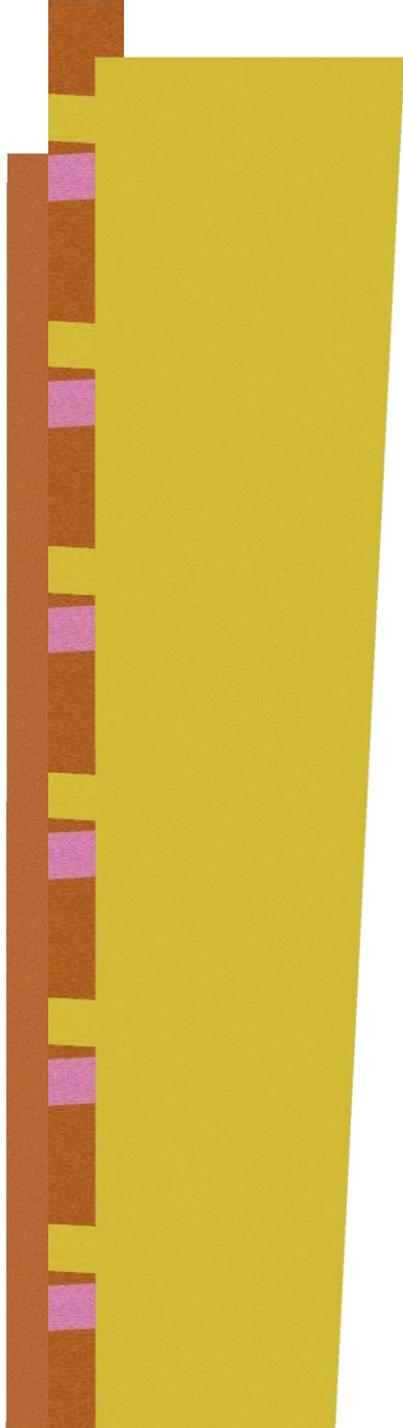


MUNICIPAL DISCLOSURE | MARCH 28-29, 2023

LAKE NATOMA INN | FOLSOM, CALIFORNIA



Session 2

Steps and Considerations in Crafting the Initial Disclosure Documents

Jacqui Jennings

Partner

ArentFox Schiff LLP

Patricia Reavey

Deputy Executive Director of
Finance & Administration

Alameda County
Transportation Commission

Did you issue debt in 2022?

Preliminary Considerations

What is being financed?

What law authorizes the financing?

How will the financing be structured?

What is the source of funds to repay the borrowing?

Who is the issuer's representative that will be responsible for ongoing compliance?

What is Being Financed?

Summary Description of the Project(s)

Size, Location, Costs

Sources of Funding for the Project

Contractor and type of Contract

Required Approvals and Status thereof

Expected Construction Commencement and Completion Dates



Do you plan to issue debt in 2023?

Getting Started

WHO?

Financing Team

WHY?

Investors in municipal securities have rights under federal securities law

WHAT?

Official Statements

Offering Memoranda

Assemble the Financing Team

Issuer Team + Other Professionals = Financing Team

Issuer Team

- Issuer
- Department Representatives
- Issuer's Counsel
- Bond Counsel
- Disclosure Counsel
- Municipal Advisor
- Feasibility Consultant
- Appraiser

Other Professionals

- Trustee / Paying Agent / Fiscal Agent
- Trustee's Counsel
- Underwriter
- Underwriter's Counsel
- Securities Repository (DTC)
- Credit Enhancer
- Rebate Consultant
- Dissemination Agent
- Borrower and Borrower's Counsel (Conduit Transaction)
- Verification Agent (Refundings)
- Remarketing Agent (Variable Rate Transaction)
- Letter of Credit Bank (Variable Rate Transaction)

Why is Disclosure Necessary?

- Securities Act of 1933 - "Truth in Securities Law"
 - ❖ Requires that investors receive financial and other significant information for securities prior to sale
 - ❖ Section 17(a) – Antifraud Rule – Prohibits deceit, misrepresentations, and fraud in sale of securities
- Exchange Act of 1934 – Created the SEC; conferred broad authority to the SEC to register, regulate, and oversee securities transactions and participants; and require periodic filings
 - ❖ Section 10(b) – prohibits use of manipulative or deceptive acts in connection with purchase or sale of securities
 - Rule 10b-5 – prohibits the making of untrue statements of material facts or omitting to state material facts that are necessary to make the statements in the offering document not misleading

When do Disclosure Laws Apply?

Whenever the issuer “speaks to the market”

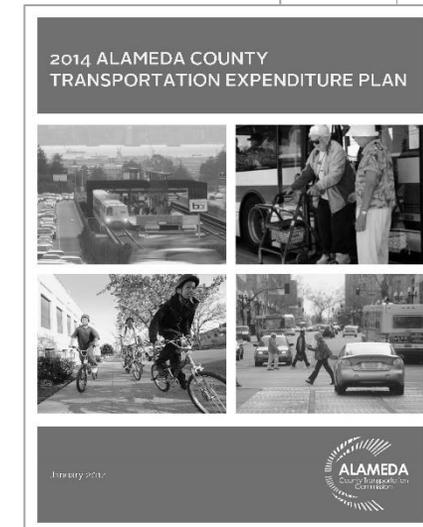
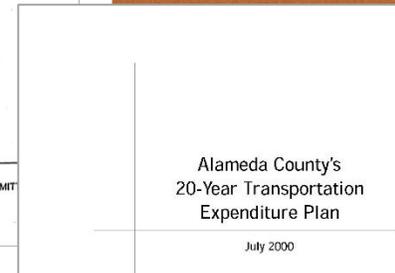
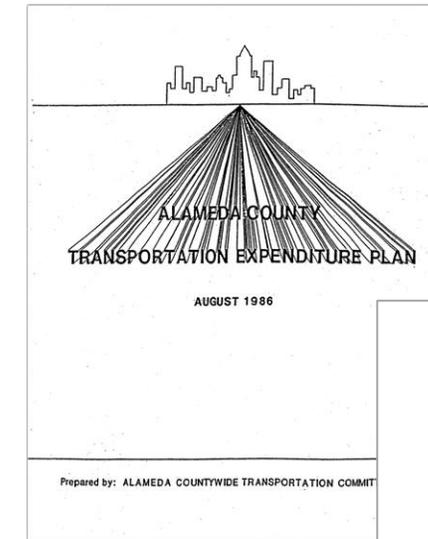
- Primary disclosure in Official Statements and Offering Memoranda
- Annual Reports
- Event Notices and Voluntary filings pursuant to Rule 15c2-12
- Investor Communications
- Other public statements made by the District and its officials, including press releases, public statements, interviews, website, social media, and speeches
- Reports delivered to governmental agencies
- All statements made by a municipal issuer that are reasonably expected to reach investors are subject to antifraud provisions

What is an Official Statement?

- A document prepared by or on behalf of a state or local government in connection with the issuance of municipal securities
- An official statement is similar to a prospectus that is used in corporate securities offerings
- Provides detailed information to investors about the transaction

Alameda County Transportation Commission

- The Commission is a joint powers authority that plans, funds, and delivers significant transportation projects and programs throughout Alameda County
 - ❖ Alameda County Encompasses 813 square miles, with a population approaching 1.67 million
- Alameda CTC and its predecessor agencies have:
 - ❖ Collected and administered sales tax revenues since 1987,
 - ❖ Successfully delivered almost all projects included in both the 1986 and 2000 Measure B Transportation Expenditure Plans as promised to voters, and
 - ❖ Currently working to deliver projects in the 2014 Measure BB Transportation Expenditure Plan



Alameda CTC Governance



- The governing body of Alameda CTC consists of 22 Commissioners:
- ❖ All five County Supervisors,
 - ❖ Two representatives from the City of Oakland,
 - ❖ One representative from each of the 13 incorporated cities in the County,
 - ❖ One representative from San Francisco Bay Area Rapid Transit District (BART) and
 - ❖ One representative from the Alameda-Contra Costa Transit District (AC Transit)

Alameda CTC Overview

- Mission - to plan, fund and deliver transportation programs and projects that expand access and improve mobility to foster a vibrant and livable Alameda County.
- Manages Alameda County's one-cent transportation sales tax, Measure BB, approved by more than two-thirds of voters in 2014 in support of the 2014 Transportation Expenditure Plan (TEP) which includes various transportation projects and programs throughout Alameda County and expires in 2045
- Serves as Alameda County's congestion management agency
- Delivers more than \$300 million each year in transportation improvements that create jobs, enhance mobility and enrich communities

PLAN

Alameda CTC develops a range of plans that guide transportation development and funding decisions

FUND

Alameda CTC's investment decisions are guided by voter-approved transportation expenditure plans

DELIVER

Alameda CTC intends to deliver over \$3 billion of transportation projects over the next five years

Alameda CTC Credit Highlights

- AAA ratings from both S&P and Fitch supported by many factors, including strong sales tax growth and central position within the Bay Area economy

Very Strong Regional Economy

- Broad and diverse tax base
- Strong employment and wealth indicators in the County

Robust Sales Tax Revenues

- FY2022 sales tax revenues are 1 cent and at all-time high of \$385.9M
- FY2023 collections up 7.9% over FY2022 through first half of fiscal year

Strong Debt Service Coverage and Liquidity

- MADS coverage ratio of 35.68x after Series 2022 Bonds issued
- Prudent management of cash flows with healthy balance in excess of \$660M before issuance

Strong Legal Provisions

- Gross sales tax revenue pledge net of administration costs
- Trustee intercept provides enhanced security
- ABT: 2.0x MADS
- Measure BB capital funding allocation of approximately 46% establishes “programmatic coverage” of approximately 2.25x

Management Strength and Stability

- Management team averages over 25 years of experience
- Proven track record of delivering projects on time and on budget
- Experience managing prior debt program under previous Measure B Sales Tax Measures

Has your jurisdiction developed written procedures to assist in drafting preliminary official statements?

Is there a Process for Disclosure?

YES!

- Follow your adopted written disclosure policies and procedures, which:
 - ❖ Define a process for drafting and reviewing all disclosure documents
 - ❖ Empower staff at All levels to provide input
 - ❖ Provide legislative body sufficient time for review and comment
 - ❖ Review and update disclosure policies and procedures regularly
- Incorporate best practices for disclosure
- Focus on the “big picture”
- Disclose the good **and** the bad
- Retain knowledgeable counsel and professionals
- Provide appropriate and regular training to officials and staff

What Information is in Official Statement?

Material information needed by investors to make a decision to purchase the securities, including:

- Introduction
- Plan of Finance
- Sources and Uses of Funds
- Project Description
- Security for the Bonds and Sources of Payment
- Capital Improvement Plan
- Issuer Financial and Relevant Operating Information
- Risk Factors
- Absence of Material Litigation
- Continuing Disclosure Compliance
- Appendices
 - ❖ Economic, Demographic, and Statistical Data
 - ❖ Form of Bond Opinion
 - ❖ Form of Continuing Disclosure Undertaking
 - ❖ DTC Disclosure
 - ❖ Third Party Documents and Certifications



Alameda CTC Debt Issuance Approach

NEW ISSUE – BOOK-ENTRY ONLY

In the opinion of Orrick Herrington & Sutcliffe LLP, Bond Counsel to Alameda CTC, based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the Series 2014 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 and is exempt from State of California personal income taxes. In the further opinion of Bond Counsel, interest on the Series 2014 Bonds is not a specific preference item for purposes of the federal individual and corporate alternative minimum taxes, although Bond Counsel observes that such interest is included in adjusted current earnings when calculating corporate alternative minimum taxable income. Bond Counsel expresses no opinion regarding any other tax consequences related to the ownership or disposition of, or the amount, accrual or receipt of interest on, the Series 2014 Bonds. See "Tax Matters" herein.



\$137,145,000
ALAMEDA COUNTY TRANSPORTATION COMMISSION
Sales Tax Revenue Bonds
(Limited Tax Bonds)
Series 2014

RATINGS

S&P: "AAA"
 Fitch: "AAA"

- Develop a long-term debt strategy with Municipal Advisor
- Agency funds capital projects on a pay-as-you-go basis as long as reasonably possible (minimize financing costs)
- Agency issues debt when funding is needed to move capital projects forward efficiently
- Gain Commission approval for:
 - ❖ Update to debt policy, as needed
 - ❖ Internal fund borrowing, as needed, to allow for optimal timing on entering the market
 - ❖ A par amount range in order to be responsive to market conditions on day of sale
 - ❖ Continuing disclosure certificate

NEW ISSUE—BOOK-ENTRY ONLY

In the opinion of Norton Rose Fulbright US LLP, Los Angeles, California, Bond Counsel, under existing statutes, regulations, rulings and judicial decisions, and assuming compliance with certain covenants in the documents pertaining to the Series 2022 Bonds and requirements of the Internal Revenue Code of 1986, as described herein, interest on the Bonds is not included in the gross income of the owners thereof for federal income tax purposes. In the further opinion of Bond Counsel, interest on the Bonds is not treated as an item of tax preference for purposes of the federal alternative minimum tax. Bond Counsel is also of the opinion that, under existing law, interest on the Series 2022 Bonds is exempt from personal income taxes of the State of California. See "TAX MATTERS" herein.



\$124,030,000
ALAMEDA COUNTY TRANSPORTATION COMMISSION
Measure BB Senior Sales Tax Revenue Bonds
(Limited Tax Bonds)
Series 2022

RATINGS

S&P: "AAA"
 Fitch: "AAA"

ACTC Evolving Official Statement Topics

- Additional disclosure items in 2022 Official Statement (OS) vs. 2014 OS
 - ❖ Risk to Pledged Revenues
 - Economy
 - Effect of COVID-19
 - Risk of natural disasters (e.g. major earthquake since we live in CA)
 - Investments
 - Market fluctuations
 - Reduced interest income
 - Cyber Security
 - Hacking, viruses, malware, ransomware and other attacks (Alameda CTC or CDTFA)
 - Climate Change
 - Sea level rise
 - Extreme temperatures and weather events

Agency Protections

- Disclosures in OS are important to protect the issuing agency
 - ❖ Include any risk that may arise (related to industry, demographics, etc.)
- Development of OS
 - ❖ Work with Disclosure Counsel to prepare document
 - ❖ Review all sections prepared by Disclosure Counsel from publicly available documents closely (read everything to ensure authenticity and accuracy)
 - ❖ Discuss industry risk and what should be included in OS
 - ❖ Slow down a transaction when necessary or let Disclosure Counsel know if information is not yet available and when it is expected to be available (e.g. audited financial statements, pledged revenues, etc.)

Has your jurisdiction developed written procedures to assure compliance with continuing disclosure undertakings?

Conclusion

- Disclosure evolves to reflect current circumstances and concerns
- Approach each financing with “fresh eyes”
- Raise concerning issues with your Issuer Team
- Make sure that all the right people are in the room
- Don't ignore obligations under securities laws
- Tell the full story

Additional Resources

- California Debt and Investment Advisory Commission www.treasurer.ca.gov/cdiac
- Government Finance Officers Association www.gfoa.org
- Municipal Securities Rulemaking Board www.msrb.org
- National Association of State Auditors, Comptrollers and Treasurers www.nasact.org
- National Federation of Municipal Analysts www.nfma.org
- Securities Industry and Financial Markets Association www.sifma.org